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10/015,467	12/11/2001	Pan-Gyu Kang	A32966-A - 072944.0145	4619

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EXAMINER

KLEBE, GERALD B

ART UNIT PAPER NUMBER

3618

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/015,467

Applicant(s)

KANG, PAN-GYU

Examiner

Gerald B. Klebe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) 13, 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1, 12, and 14 is/are rejected.
- 7) ☐ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/494,681.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Amendment

1. Applicant's amendment and response to election requirement filed 7/16/2003 has been entered. (Paper No. 7.) By the amendment claims 2-11 are cancelled, claims 1 and 12-19, as amended, remain pending in the application.

Acknowledgment

2. Acknowledgment is made of Applicant's claim for foreign priority under 35 USC ~~Se~~ 119(a)-(d) or (f), as being a Continuation – in – Part of application 09/494,681 filed January 31, 2000, now U.S. Patent 6,431,563 B1. The certified copy of the priority document has been received and filed in Application No. 09/494,681.

Election of Species

3. Applicant's provisional election with traverse of species Group I: Figures 1-9, drawn to a golf bag cart having a pressurizing member fixed to the bag, positioned just below the cart support and connected to the cart wheel structures is acknowledged. Applicant asserts that as amended claims 1 and 12-19 read upon the provisionally elected species.

Applicant's traversal is on the ground(s) that a search and examination of the entire scope of the originally filed claims, being intimately related, would not necessarily impose a serious burden on the Examiner.

The examiner disagrees. Besides the elected species Group I there are found another nine (9) distinct species in the disclosure as filed, evidenced not only in the figures but also in Applicant's numerous citations in the disclosure to these various embodiments of the invention. In the absence of Applicant providing statements to the effect that these embodiments are

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obvious variants and are not distinct, the consequence for the examiner is to search and examine the prior art for all 10 variants as possibly being independent and patentably distinct; this is unduly burdensome on the examiner's time and effort in the application given that the intent of the statute is that two or more independent and distinct invention may not be claimed in one application. Refer MPEP 802.01

As to Applicant's assertion the restriction requirement did not indicate which of the original claims (i.e., Claims 1-19 were readable upon each of the Groups I- X and therefore no clearly identifying each of the disclosed species to which the claims are restricted, citing MPEP Sec. 809.02(a) in support, the examiner points out that the restriction requirement places the burden upon the Applicant's reply to identify the claims reading upon the elected species. Refer MPEP Sec. 809.02(a)(C) subpara. 4. Moreover, contrary to the assertion of the Applicant that all claims as amended read on the elected species Group I, Figs 1-9, the Examiner determines that claim 13 reads on non-elected species III (Fig 11) and that claims 15 and 16 read on non-elected species X (Fig 18).

Applicant's arguments, therefore, are not persuasive and, in the absence of any generic claim being substantively allowable, the election requirement is deemed proper and is hereby made FINAL, claims 13, 15 and 16 being withdrawn from further consideration as reading on non-elected species.

Abstract

4. The abstract is objected to for the following informalities:

line 4: states that the pressurizing member is fixed to the bag; whereas the claims state that the pressurizing member is fixed to the cart support. On the other hand, the specification at

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page 7, para. 0019: states that the pressurizing member is fixed to the lateral surface of the bag just below the cart support.

Appropriate clarification or correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 12 and 14 are rejected under 35 USC 103(a) as being unpatentable over Sundara et al. (US 5887833) in view of Kao et al. (US 5829585).

a. Sundara et al. teaches a golf bag support stand having: (**re: claim 1**) a bag (200) having an inner empty space, a wide lateral space and a narrow bottom surface; a support (100) onto which the bag is loaded, a pressurizing member (180) integrally fixed to the support stand such that the pressurizing member is rotated by a predetermined angle, the pressurizing member being pressurized against a ground surface and enduring the weight of the bag when the bag is inclined by a predetermined angle (ref col 2, lines 40-44); a plurality of left and right leg members (140) movably fixed to a middle portion of the support stand via a fixture (110) such that the leg members are arranged to form a predetermined angle with respect to the fixture (refer Figs 3, 4, 5, and column 3, lines 31-37), the leg members being folded by way of self weight when the bag is erected (refer col 3, lines 57-63), the fixture (110) being rigidly fixed to the bag (ref col 2, lines 51-54); and having left and right leg members such that the legs are rotated to be

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folded by way of self weight when the bag is erected (refer column ; and having a plurality of link members (190) each having an end coupled to the pressurizing member (180), and an opposite end coupled to the leg members (at 125; refer col 3, lines 47-49), the link members unfolding the leg members while being elevated when the pressurizing member is pressurized against the ground surface (col 4, lines 13-15); and (**re: claim 12**) wherein the bag support stand is longitudinally fixed to the lateral surface of the bag via upper (110) and lower (170) brackets (ref col 2, lines 31-34), and has an inclined portion (220; and refer col 4, lines 55ff) at a bottom surface thereof; and wherein (**re: claim 14**) the pressurizing member is connected to the lower portion of the bag support stand (via bracket 170, shown in figure 4) by a rivet. Regarding this feature, Sundara et al. is not explicit about the means of connection of item 170 being made with a rivet; however, the connection of the top bracket member 110 is explicitly stated to be a rivet (refer col 2, lines 51-53). Therefore, from a consideration of the similarity of the drawings of 110 and 170 as seen in Fig 4, it is inferred that the means of connection of 170 to the support stand is the same as that used to connect 110 to the support stand, viz., by means of rivet(s).

b. Sundara et al. lacks explicit disclosure of wheels mounted on the ends of the legs of the bag support stand.

c. However, Kao et al. teaches the interchangeability of a golf bag support structure having wheels (a cart) and one that simply uses fixed legs for the bag support. (Refer Figs 3 and 4, and column 1, lines 60-62).

d. Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have modified the bag support stand of Sundara et al. by incorporating wheels in accordance with the teachings of Kao et al. in order to convert the bag carrying stand to one that could be pulled along the ground by the user as an easier means of

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transport of the loaded golf bag say, for users lacking the strength and stamina for carrying the loaded bag when playing over the golf course.

Double Patenting

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

8. Claim 1 is rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1 of prior U.S. Patent No. US. 6,431,563 B1. This is a double patenting rejection.

Allowable Subject Matter

9. Claims 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art made of Record

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10. The prior art made of record is considered pertinent to the applicant's disclosure: the prior art of Kim teaches an attachable cart support system for a golf bag as a combination of self-erecting wheels or stand supports legs activated by means of extending the cart handle; Roepke teaches a golf bag support stand that erects by activation of a pressurizing member compressed against a spring, the stand support being attachable to the golf bag by means of a downwardly bent upper bracket to engage and attach the edge of the bag; Chung teaches a golf bag support stand erectable by means of a pressurizing member wherein the stand legs retract by their own weight when the golf bag is erected; the prior art of Weng, of Suk, and of Han, each teach a pressurizing means for erection of the stand legs or wheel legs of a golf bag cart; Tang teaches a golf bag car with erectable wheeled legs with a tension spring to retract the legs. These references also show various other structures having features in common with some of the features disclosed in the instant application.

Conclusion

11. Any inquiry concerning this communication from the examiner should be directed to Gerald B. Klebe, telephone 703-305-0578, fax 703-308-2571; Mon.- Fri. 8 AM – 4:30 PM ET, or to Supervisory Patent Examiner Brian L. Johnson, Art Unit 3618, at 703-308-0885. When faxing official correspondence please use the TC 3600 Official Rightfax numbers as follow: Regular correspondence: 703-872-9326; After Finals: 703-872-9327; Customer Service 703-872-9325.

gbklebe
gbklebe / Art Unit 3618 / 21 September 2003

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9/22/03